

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shadman Khan	Team: Squad #12	CCRB Case #: 201908613	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/28/2019 8:08 PM, Sunday, 09/29/2019 3:30 PM	Location of Incident: Over the phone, and 109th Precinct stationhouse	Precinct: 109	18 Mo. SOL 3/29/2021	EO SOL 11/13/2021	
Date/Time CV Reported Tue, 10/01/2019 9:17 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/01/2019 9:17 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Loreal Lurch	07385	961539	109 PCT
2. POF Cynthia Pezua	16818	957954	PBQ/N
3. SGT Yaudy Fernandez	00745	943227	PBQ/N
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Roque Martinez	19198	962588	109 PCT
2. POM Jason Molloy	24626	962626	109 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Loreal Lurch	Abuse: On September 28, 2019, over the phone, Police Officer Loreal Lurch refused to provide her shield number to § 87(2)(b)	
B. An officer	Discourtesy: On September 28, 2019, over the phone, an officer acted discourteously toward § 87(2)(b)	
C.POF Loreal Lurch	Abuse: On September 29, 2019, at the 109th Precinct stationhouse, Police Officer Loreal Lurch refused to provide her shield number to § 87(2)(b)	
D.POF Cynthia Pezua	Abuse: On September 29, 2019, at the 109th Precinct stationhouse, Police Officer Cynthia Pezua did not process § 87(2)(b)'s complaint regarding officer.	
E.SGT Yaudy Fernandez	Abuse: On September 29, 2019, at the 109th Precinct stationhouse, Sergeant Yaudy Fernandez did not process § 87(2)(b)'s complaint regarding an officer.	

Case Summary

On October 1, 2019, § 87(2)(b) filed this complaint with the CCRB through telephone.

On September 28, 2019, at approximately 8:00p.m., § 87(2)(b) contacted the 109th Precinct stationhouse via telephone for assistance. PO Loreal Lurch from the 109th Precinct answered the call. During the call, § 87(2)(b) asked PO Lurch for her shield number, which she refused to provide (**Allegation A: Abuse of Authority: Refusal to provide shield number,** § 87(2)(g) PO Lurch placed § 87(2)(b) on hold before § 87(2)(b) disconnected the call. § 87(2)(b) called back; someone picked up the phone but then disconnected it (**Allegation B: Discourtesy: Action,** § 87(2)(g)). § 87(2)(b) contacted the 109th Precinct stationhouse approximately seven times but did not receive any answer.

On September 29, 2019, at approximately 3:30p.m., inside the 109th Precinct stationhouse, § 87(2)(b) asked PO Lurch to speak to a captain and for her shield number. PO Lurch refused to provide him with the shield number (**Allegation C: Abuse of Authority: Refusal to provide Shield Number,** § 87(2)(g)). Approximately two hours later, § 87(2)(b) returned to the front desk of the 109th Precinct stationhouse and approach PO Cynthia Pezua and Sgt. Yaudy Fernandez from the 109th Precinct. § 87(2)(b) informed PO Pezua that he wished to file a complaint against PO Lurch. PO Pezua pointed at a poster for the CCRB and informed § 87(2)(b) that the complaint number was there. Neither PO Pezua nor Sgt. Fernandez completed a complaint form for § 87(2)(b) (**Allegation D: Abuse of Authority: Refusal to process civilian complaint,** § 87(2)(g)) (**Allegation E: Abuse of Authority: Refusal to process civilian complaint,** § 87(2)(g)).

No video footage was recovered for this investigation (Board Review 09-10).

Findings and Recommendations

Allegation (A) Abuse of Authority: On September 28, 2019, over the phone, Police Officer Loreal Lurch refused to provide her shield number to § 87(2)(b)

Allegation (B) Discourtesy: On September 28, 2019, over the phone, an officer acted discourteously toward § 87(2)(b)

In § 87(2)(b)'s statement to the CCRB (Board Review 01), he stated that on September 28, 2019, at approximately 8:08p.m., he contacted the 109th Precinct stationhouse in order to report that he believed his girlfriend had stolen his identification cards. PO Lurch answered the call and identified herself by her name. PO Lurch informed § 87(2)(b) that there was nothing she could do to help and that she could not force his girlfriend to return his identification cards to him. § 87(2)(b) asked to speak to the captain and for PO Lurch's shield number. PO Lurch stated that she could let him speak to her sergeant but did not address § 87(2)(b)'s request for her shield number. Once § 87(2)(b) stated he did not want to speak to a sergeant, PO Lurch placed him on hold. § 87(2)(b) disconnected the call and called the precinct again. The call was answered and then immediately disconnected. § 87(2)(b) contacted the precinct stationhouse four more times but received no answer.

In PO Lurch's statement to the CCRB (Board Review 03), she stated that she had no independent recollection of the incident. PO Lurch confirmed that she was the telephone switchboard operator on the date of the incident and that calls to the stationhouse usually go to the telephone switchboard operator. However, calls may be directed to other locations at the precinct based on prompts selected by the caller. PO Lurch was familiar with the name § 87(2)(b) due to previous domestic incidents but did not recall any conversation with him on the date of the incident. PO

Lurch stated that if a civilian had asked for name and shield number over the phone, she would have been obligated to provide it. She further stated that she would not have refused to provide her name and shield number if asked for it. PO Lurch stated that it is possible for a phone to be disconnected due to technological issues.

The investigation received PO Lurch's memo book for September 28, 2019 (Board Review 11). The memo book again confirmed that PO Lurch was assigned as the telephone switchboard operator. The memo book does not have any entries regarding a call with § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) alleged that when he called back to the 109th Precinct stationhouse, the call was picked up and disconnected. He did not speak with the person who disconnected the call and could not provide any information about who performed this action. § 87(2)(g). No identifying information was obtained for the subject officer of this allegation. § 87(2)(g)

Allegation (C) Abuse of Authority: On September 29, 2019, at the 109th Precinct stationhouse, Police Officer Loreal Lurch refused to provide her shield number to § 87(2)(b)

According to § 87(2)(b) on September 29, 2019, at approximately 3:30p.m., he went to the 109th Precinct stationhouse and approached PO Lurch, who was sitting at the front desk. § 87(2)(b) requested to speak to her captain and asked PO Lurch for her badge number. PO Lurch responded, "I'm not giving you that," and inquired why he wanted to speak to her captain. § 87(2)(b) informed PO Lurch that she had acted unprofessionally when they spoke over the phone, and told PO Lurch that she had disconnected the phone on him when they last spoke. PO Lurch denied performing this action. After arguing with PO Lurch for approximately 90 seconds, two other officers provided him with the requested escort to his girlfriend's house to retrieve his clothing.

In PO Lurch's statement, she stated she did not have any recollection of any incident with § 87(2)(b) on September 29, 2019. PO Lurch was informed that § 87(2)(b) went to the 109th Precinct to complain about the call placed on September 28, 2019 and asked for her badge number as well. When provided with these details of the incident, PO Lurch stated that she did not recall any part of the incident.

The investigation requested stationhouse video footage for September 29, 2019. The request was returned with notice that footage from that date was no longer available at the time of the request (Board Review 09).

§ 87(2)(g)

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Allegation (D) Abuse of Authority: On September 29, 2019, at the 109th Precinct stationhouse, Police Officer Cynthia Pezua did not process § 87(2)(b)'s complaint regarding officer.

Allegation (E) Abuse of Authority: On September 29, 2019, at the 109th Precinct stationhouse, Sergeant Yaudy Fernandez did not process § 87(2)(b)'s complaint regarding an officer.

When § 87(2)(b) returned to the stationhouse from retrieving his belongings, he saw PO Pezua and Sgt. Fernandez at the front desk. § 87(2)(b) asked PO Pezua to speak to the captain, who responded that the captain was busy. § 87(2)(b) then requested to file a complaint against PO Lurch. PO Pezua pointed to a poster on a wall with the CCRB contact information, but neither PO Pezua nor Sgt. Fernandez offered a complaint form or filled out a complaint form.

PO Lurch provided a statement to the CCRB on December 23, 2020 (Board Review 03). PO Lurch did not have any recollection of any incident with § 87(2)(b) on September 29, 2019. When provided details of the incident, PO Lurch stated that she did not recall any part of the incident. PO Lurch did not know if § 87(2)(b) had any conversation with either PO Pezua or Sgt. Fernandez on that date. PO Lurch did not witness either PO Pezua or Sgt. Fernandez refuse to process a complaint for § 87(2)(b).

PO Pezua provided a statement to the CCRB on February 17, 2021 (Board Review 04). In PO Pezua's statement to the CCRB, she stated that she vaguely remembered a male entering the 109th Precinct stationhouse in order to file a complaint against an officer. PO Pezua did not know if a complaint form was generated in regard to this complaint. PO Pezua stated that she provided § 87(2)(b) with the options to file the complaint through phone and email. She also pointed to a display behind her which had information on how to file a complaint through phone and email. PO Pezua then referred the complaint to Sgt. Fernandez, who was the desk sergeant on the date of the incident.

In Sgt. Fernandez's statement to the CCRB on March 8, 2021 (Board Review 05), he did not have any independent recollection of any incident that occurred on September 29, 2019. Sgt. Fernandez did not know the name § 87(2)(b) and did not recognize his photograph. The photograph or name did not refresh any recollection of the incident. If a civilian entered the stationhouse to file a complaint, Sgt. Fernandez would have informed them that they can file a complaint online, via phone, or in person. He would also show them a sign with this information posted behind the front desk. If a civilian did not wish to file over the phone or internet, officers would have been required to file the complaint in person. If any other officer did not file the complaint, the desk sergeant would have been required to do so. Sgt. Fernandez did not file any complaints on the date of the incident. If a complaint had been filed, it would have been noted in the command log. If a civilian was unable to file a complaint for any reason, this would have also been filed in the command log. Sgt. Fernandez did not expound on what he meant by being unable to file a complaint. Sgt. Fernandez did not make any command log entries regarding a failure to file a complaint. Sgt. Fernandez did not know if PO Pezua failed to file a complaint for § 87(2)(b).

As stated in Allegation C, the investigation did not receive any stationhouse footage because it was no longer available on the date of the request.

The investigation received the command log entries made for September 29, 2019 (Board Review 02). The command log entries received appear to be photographs, with multiple pages that are

difficult to read due to the quality of the images. The investigation was unable to determine if the command log contained any entries about § 87(2)(b)'s attempt to file a complaint with either PO Pezua or Sgt. Fernandez.

Upon receipt of any civilian complaint made in person alleging misconduct by a uniformed member of service, the complainant must be interviewed, given a copy of a Civilian Complaint Form, and signed by the complainant. Assistance may be obtained in completing the form. The form must then be reviewed by a supervisor. To prevent any an interruption or delay in vital services, the telephone switchboard operator will refer an allegation of misconduct to the desk officer who will record pertinent details of the allegation. Patrol Guide Procedure 207-31 (Board Review 07).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one CCRB complaint and has been named as a victim in two allegations (Board Review 06):
 - § 87(2)(b) [REDACTED]
- PO Lurch has been a member of service for four years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g) [REDACTED].
- PO Pezua has been a member of service for six years and this is the first CCRB case of which she has been a subject.
- Sgt. Fernandez has been a member of service for fourteen years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Investigator:	<u>Shadman Khan</u> Signature	<u>Investigator Shadman Khan</u> Print Title & Name	<u>May 12, 2021</u> Date
Squad Leader:	<u>Carlmais Johnson</u> Signature	<u>IM Carlmais Johnson</u> Print Title & Name	<u>May 17, 2021</u> Date
Reviewer:	 Signature	 Print Title & Name	 Date